IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.725 OF 1979

M/s.Devidayal Sales Pvt.Ltd. ..Plaintiffs.

V/s.

The State Trading Corpn. of India & Anr. ..Defendants.

Ms.Karishma S. Shirke i/b. Gordhandas & Fozdar for Plaintiffs.

Ms.Manisha Chandwani for Defendant Nos. 1 and 2.

CORAM: A.M.KHANWILKAR,J

DATE : OCTOBER 22, 2007.

P.C. :

1. This Suit was instituted in the year 1977 and has remained pending since then. The matter had appeared on 26th July, 2007 for fixing date of hearing. Accordingly, it was ordered that the matter will appear on 17th September, 2007 for argument. The matter did appear on 17th September, 2007 for argument. But on that date, the Court was busy with part-heard matter, which was continued for whole day. In the circumstances, other matters were adjourned and given suitable date. The present suit was adjourned for today i.e. 22nd October, 2007.

2. Today the matter reached for hearing and was

called out once at 1.30 p.m., when the Counsel for the Plaintiffs informed that the Counsel engaged to appear in the matter was unable to attend to this matter today. It was made clear that if counsel appearing for the Plaintiffs fails to appear, in that case, advocate on record should take responsibility of proceeding in the matter. In any case absence of Senior Counsel was no ground for adjournment. The matter was kept back to be called out after lunch break. Accordingly, matter reached for hearing after the lunch break when Ms.Karishma Shirke appearing for Plaintiffs once again reiterated that the hearing of the suit be deferred. This time it was stated that advocate handling the matter from the office of the advocate on record is out of station. No leave note is filed in that behalf. The advocate on record could have made alternate suitable arrangement to ensure that matter proceeds for argument whenever it is called out.

3. The Advocate, who appears for the Plaintiffs was called upon to proceed with the matter. She however, submits that she is new entrant in the profession. It is inappropriate that the advocate on record would send junior member of the bar to deal with such situation. Instead, the advocate on record

should have made suitable arrangement to go on with the matter. In the aforesaid circumstances, this Court has no option, but to dismiss the suit for non-prosecution.

4. Advocate appearing for the Plaintiffs now once again requests the Court to give last chance and adjourn the matter. It is not possible to accept this request.

(A.M.KHANWILKAR,J)